

# McNamara Declaration

## Exhibit 131

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**From:** Michelle Wu  
**Sent:** Tuesday, November 7, 2017 3:23 PM EST  
**To:** Lila Bailey  
**Subject:** Fwd: IIMPORTANT: Note re Controlled Digital Lending

Attorney Client

----- Forwarded message -----

**From:** Billie Jo Kaufman <[REDACTED]@wcl.american.edu>  
**Date:** Tue, Nov 7, 2017 at 2:24 PM  
**Subject:** Fwd: IIMPORTANT: Note re Controlled Digital Lending  
**To:** Michelle Wu <[REDACTED]@law.georgetown.edu>

May need some back up

Billie Jo Kaufman  
Associate Dean for Library & Information Resources  
American University, Washington College of Law

[REDACTED]  
[REDACTED]

[REDACTED]@wcl.american.edu

Begin forwarded message:

**From:** Peter Jaszi <[REDACTED]@wcl.american.edu>  
**Date:** November 7, 2017 at 2:21:08 PM EST  
**To:** Billie Jo Kaufman <[REDACTED]@wcl.american.edu>  
**Subject:** IIMPORTANT: Note re Controlled Digital Lending

Dear Billie Jo:

Forgive the capitals, please, but they are justified. I understand the Pence Law Library has signed onto the Internet Archives legal “analysis” of CDL. This is a one-sided puff piece that seriously misrepresents both the state of the law and the risks to institutions of pursuing the strategy. It may serve the institutional interests of the IA, but they will not be bearing the costs of the litigation that is bound to follow if this model is rolled out. I think you know me as a strong advocate for responsibly aggressive reliance on fair use, but this document is beyond the pale. I’ll be speaking out strongly against its conclusions when and if it is publicly released, and I hate to see WCL associated with it in any way. It would be great to talk about this, if you’re interested. I can be reached more or less continuously on [REDACTED]  
[REDACTED]

With best wishes, in haste and urgency,

— Peter

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Michelle M. Wu | Associate Dean for Library Services & Professor of Law  
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